

MONTANA LEGISLATIVE HISTORY

Chapter 139 19 81

Bill H 79 S _____ Original bill & history ✓ c

H. Committee on Labor

S. Committee on Labor

Hearing Date(s) 1-8 _____ c

Hearing Date(s) 3-5 _____ c

1-13 _____ c

3-7 _____ c

1-15 _____ c

_____ c

2-3 _____ c

_____ c

Date Out _____ c

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

HEARING: 1/20
REPORT: DO PASS, 1/22
2ND READING: 1/24, BE CONCURRED IN
3RD READING: 1/27 BE CONCURRED IN, YEAS: 49; NAYS: 0

RETURNED TO HOUSE: 1/27
TRANSMITTED TO GOVERNOR: 1/29
ACTION: SIGNED, 2/2
CHAPTER 2

BB 78—HARPER—FOR THE GENERAL REVISION OF THE LAWS RELATING TO CHILD LABOR.....

PREFILED AND REFERRED TO COMMITTEE ON LABOR: 1/5
BILL TABLED IN COMMITTEE

BB 79—HARPER—TO REVISE AND CLARIFY THE LAW RELATING TO THE PREFERENCE OF MONTANA LABOR IN PUBLIC WORKS CONTRACTS.

PREFILED AND REFERRED TO COMMITTEE ON LABOR: 12/31/80
HEARING: 1/8
REPORT: DO PASS AS AMENDED, 1/13
2ND READING: ON MOTION, PASSED FOR THE DAY, 1/16
2ND READING: DO NOT PASS MOTION, 1/17 YEAS: 54; NAYS: 43
BILL KILLED ON 2ND READING, 1/17

MOTION, 1/19, TO RECONSIDER ACTION.
ON MOTION, 1/19, REREFERRED TO COMMITTEE ON LABOR.

HEARING: 2/3
REPORT: DO PASS AS AMENDED, 2/3
2ND READING: 2/9 YEAS: 63; NAYS: 25
3RD READING: 2/11 YEAS: 69; NAYS: 27

TRANSMITTED TO SENATE: 2/11
REFERRED TO COMMITTEE ON LABOR: 2/12
HEARING: 3/5
REPORT: 3/9, BE CONCURRED IN
2ND READING: 3/10, BE CONCURRED IN
3RD READING: 3/12, YEAS: 46; NAYS: 4

RETURNED TO HOUSE: 3/12
TRANSMITTED TO GOVERNOR: 3/18
ACTION: SIGNED, 3/23
CHAPTER 139

BB 80—PISTORIA—TO REMOVE THE BOND REQUIREMENT FOR PERSONS WHO ARE PROTECTIVE PAYEES FOR RECIPIENTS OF PUBLIC ASSISTANCE.

PREFILED AND REFERRED TO COMMITTEE ON HUMAN SERVICES: 12/31/80
HEARING: 1/14
REPORT: DO PASS, 1/19
2ND READING: 1/21 YEAS: 68; NAYS: 24
ON MOTION, TAKEN FROM 3RD READING AND PASSED FOR THE DAY: 1/22
ON MOTION, TAKEN FROM 3RD READING AND RETURNED TO THE COMMITTEE
ON HUMAN SERVICES: 1/23
EXECUTIVE SESSION: 1/28
REPORT: DO PASS, 2/7
2ND READING: 2/16 YEAS: 86; NAYS: 2
3RD READING: 2/24 YEAS: 94; NAYS: 3

TRANSMITTED TO SENATE: 2/24
REFERRED TO COMMITTEE ON PUBLIC HEALTH: 3/2
HEARING: 3/20

HOUSE BILL NO. 79

INTRODUCED BY HARPER

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

IN THE HOUSE

January 6, 1981	Introduced and referred to Committee on Labor and Industry.
January 14, 1981	Committee recommend bill do pass as amended. Report adopted. Statement of intent attached.
January 15, 1981	Bill printed and placed on members' desks.
January 16, 1981	Second reading, pass consideration.
January 17, 1981	Second reading, do not pass.
January 19, 1981	Bill reconsidered and referred back to Committee on Labor and Industry.
February 5, 1981	Committee recommend bill do pass as amended. Report adopted. Statement of intent attached.
February 6, 1981	Bill printed and placed on members' desks.
February 9, 1981	Second reading, do pass.
February 10, 1981	Correctly engrossed.
February 11, 1981	Third reading, passed. Ayes, 69; Nays, 27. Transmitted to Senate.

IN THE SENATE

February 12, 1981

Introduced and referred to
Committee on Labor and Employment
Relations.

March 9, 1981

Committee recommend bill be
concurrent in. Report adopted.

March 10, 1981

Second reading, concurrent in.

March 12, 1981

Third reading, concurrent in.
Ayes, 46; Noes, 4.

IN THE HOUSE

March 13, 1981

Returned from Senate. Concurrent
in. Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 79
2 INTRODUCED BY HARPER
3 BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE AND CLARIFY
6 THE LAW RELATING TO THE PREFERENCE OF MONTANA LABOR IN
7 PUBLIC WORKS CONTRACTS; AMENDING SECTIONS 18-2-401 AND
8 18-2-403, MCA."
9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11 Section 1. Section 18-2-401, MCA, is amended to read:
12 "18-2-401. Definitions. Unless the context requires
13 otherwise, in this part the following definitions apply:
14 (1) "Labor" is hereby defined to be all services
15 performed in the construction, repair, or maintenance of all
16 state, county, municipal, and school work and does not
17 include engineering, superintendence, management, or office
18 or clerical work.
19 (2) "Commissioner" means the commissioner of labor and
20 industry provided for in 2-15-1701.
21 (3) "Department" means the department of labor and
22 industry provided for in 2-15-1701.
23 (4) A "bona fide resident of Montana" is hereby
24 declared to be a person who, at the time of his employment
25 and immediately prior thereto, has lived in this state in

1 such a manner and for such time as is sufficient to clearly
2 justify the conclusion that his past habitation in this
3 state has been coupled with intention to make it his home.
4 Sojourners or persons who come to Montana solely in
5 pursuance of any contract or agreement to perform such labor
6 shall under no circumstance be deemed to be bona fide
7 residents of Montana within the meaning and for the purpose
8 of this part.
9 (5) (a) "Standard prevailing rate of wages,
10 including fringe benefits for health and welfare and pension
11 contributions and travel allowance provisions applicable to
12 the county or locality in which the work is being
13 performed," means those wages, including fringe benefits for
14 health and welfare and pension contributions and travel
15 allowance provisions, which are paid in the county or
16 locality by other contractors for work of a similar
17 character performed in that county or locality by each
18 craft, classification, or type of worker needed to complete
19 a contract under this part.
20 (b) When work of a similar character is not being
21 performed in the county or locality, the standard prevailing
22 rate of wages, including fringe benefits for health and
23 welfare and pension contributions and travel allowance
24 provisions, shall be those rates established by collective
25 bargaining agreements in effect in the county or locality

HB 79

1 for each craft, classification, or type of worker needed to
2 complete the contract."

3 Section 2. Section 18-2-403, MCA, is amended to read:

4 "18-2-403. Preference of Montana labor in public works
5 -- wages -- federal exception. (1) In any contract let for
6 state, county, municipal, school, or heavy highway
7 construction, services, repair, or maintenance work under
8 any law of this state, there shall be inserted in the
9 contract a provision requiring the contractor to give
10 preference to the employment of bona fide Montana residents
11 in the performance of the work and to pay the standard
12 prevailing rate of wages, including fringe benefits for
13 health and welfare and pension contributions and travel
14 allowance provisions, in effect and applicable to the county
15 or locality in which the work is being performed.

16 (2) No contract may be let to any person, firm,
17 association, or corporation refusing to execute an agreement
18 with the above-mentioned provisions in it, provided that in
19 contracts involving the expenditure of federal-aid funds
20 this part may not be enforced in such a manner as to
21 conflict with or be contrary to the federal statutes
22 prescribing a labor preference to honorably discharged
23 veterans of the armed forces and prohibiting as unlawful any
24 other preference or discrimination among citizens of the
25 United States.

1 ~~(1) Failure to include the provisions required by~~
2 ~~subsection (1) in a public works contract does not relieve~~
3 ~~the contractor from his obligation to pay the standard~~
4 ~~prevailing wage rate."~~

5 NEW SECTION. Section 3. Notice. (1) When a state
6 agency or any public entity of this state awards a public
7 works contract, the chief executive officer of the
8 contracting authority shall send to the department a notice
9 of the contract award and the expected date of completion of
10 the project.

11 (2) When the public works project is accepted by the
12 public contracting authority, a notice of acceptance and the
13 completion date of the project shall be sent to the
14 department. The 90-day limitation for filing an action in
15 district court as provided in 18-2-407 does not begin until
16 the public contracting agency notifies the department of its
17 acceptance of the public works project.

18 NEW SECTION. Section 4. Bid to contain prevailing
19 wage rate. All bids for public works projects must contain a
20 provision stating the prevailing wage rate that the
21 contractors and subcontractors must pay during construction
22 of the project.

23 NEW SECTION. Section 5. Submission of weekly payroll
24 to contracting authority. If requested by the commissioner,
25 all contractors and subcontractors on a public works project

1 shall submit to the department certified copies of their
2 weekly payrolls.

3 NEW SECTION. Section 6. Enforcement. (1) The
4 commissioner or his representative may enter and inspect
5 such places, question such employees, and investigate such
6 facts, conditions, or matters as considered appropriate to
7 determine whether any person has violated any provision of
8 this part or any rule adopted pursuant to this part.

9 (2) The commissioner or his authorized representative
10 may administer oaths and examine witnesses under oath, issue
11 subpoenas, compel the attendance of witnesses and the
12 production of papers, books, accounts, records, payrolls,
13 documents, and testimony, and take depositions and
14 affidavits in any enforcement proceedings.

15 NEW SECTION. Section 7. Rulemaking authority. The
16 commissioner may adopt rules necessary for the
17 implementation, continuation, and enforcement of this part
18 in accordance with the Montana Administrative Procedure Act.

19 Section 8. Codification instruction. It is intended
20 that sections 3 through 7 be codified as an integral part of
21 Title 18, chapter 2, part 4, and the provisions contained in
22 Title 18, chapter 2, part 4, apply to sections 3 through 7.

-End-

HB 79

7

47th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
79 HB	Relates to the preference of Montana labor in public works contracts.	1/7	Harper	1/8	Do Pass as Amended	1/13
89 HB	Makes a person ineligible to receive unemployment compensation benefits for 3 months if gross income in the preceding three quarters is \$24,000	1/7	Moore	1/13	DO NOT PASS	1/15
101 HB	To reduce the incidence of employers issuing bad checks to employees by prohibiting disqualification for unemployment benefits if this is reason for quitting.	1/8	Dozier	1/13	TABLE	1/20
118 HB	Provides for replacement of a neutral member on the Board of Personnel Appeals; etc.	1/8	Anderson	1/15	Do Pass as Amended	1/20
124 HB	Revises the laws relating to Workers' Compensation.	1/8	Lory	1/15	Do pass as Amended	1/15
136 HB	Excludes the requirement that private employers pay unpaid wages to employees within three days of termination of employment	1/9	Moore	1/20	Do Pass	1/20

MINUTES OF THE MEETING OF THE HOUSE LABOR AND INDUSTRY COMMITTEE
January 8, 1981

The House Labor and Industry Committee convened on Thursday, January 8, 1981, in Room 129 of the State Capitol with Chairman Robert Ellerd presiding and all members present except Reps. Helen O'Connell and Bob Sivertsen who were excused. Rep. Vinger was removed from the committee because of scheduling conflicts.

Chairman Ellerd opened the meeting to a hearing on the following bills: HBs 11, 62, 75, 76, 77, 79.

HOUSE BILL 11

REPRESENTATIVE BARBARA SPILKER, District #32, said she was the chief sponsor of this bill at the request of the Study Committee on State Mandates and the Effects of State-owned Property on Local Governments. She said the law would establish that through collective bargaining you can establish what a work-week is (not necessarily 40 hours in a 7 day period--but averaging to 40 hours over an extended period). She mentioned the problem at Kalispell where the local government ended up paying overtime to their policemen who worked overtime hours in a 7 day period but not in an extended period, and despite an agreement with the bargaining unit. The law would also give the nonexempt employee an opportunity to elect compensatory time off in lieu of overtime. She felt the law would give local government the right to make a decision that is their right to make.

MIKE STEPHEN, Montana Association of Counties, said they support the bill as it would give additional flexibility to the county governments in regard to workweeks. He said their only criticism is in setting up budgets--hard to determine who is going to work overtime and to repay comp time if several people quit.

DAN MIZNER, Montana League of Cities and Towns, said they support the bill. He felt this clears up the language that said comp time must be taken within the week it was earned. He also liked that it applies to all towns regardless of size.

R. NADIEAN JENSEN, AFSCME, AFL-CIO, spoke in support of the bill.

AL THELAN, City of Billings, spoke in support of the bill. He said they are having some 10 hour, 4 day workweeks, and now each employee must sign a waiver and this law would make that unnecessary.

There were no opponents.

Questions were asked by the committee. Rep. Keedy questioned page 2, lines 1 through 4. This, he said, does not make a

drawing unemployment your unemployment check will be reduced but not totally discontinued. He said this should encourage people to be legal.

CHAD SMITH, Unemployment Compensation Advisors, Inc., spoke in opposition with a suggested amendment. He said he didn't disagree with the basic idea but his concern is with the language of the bill which does not offer the safeguards intended. He said the secondary source of income could be almost as much as a primary source and so it is conceivable that an individual could obtain unemployment compensation and have an income of \$2,000 plus self employment. He handed in a suggested amendment, EXHIBIT 1, which he said would add the necessary safeguards but still provide for the problem.

Rep. Harper in closing asked for a comment from Greg Groepper, Department of Labor and Industry. Mr. Groepper said the intent of the department was to open up the legislation for those who do work and are penalized for a whole week if they work a couple of hours. He felt Mr. Smith's amendment would not harm the intent of the bill.

Questions were asked by the committee.

HOUSE BILL 76 was passed for the day at the request of the sponsor, Rep. Hal Harper.

HOUSE BILL 77

REPRESENTATIVE HAL HARPER, District #30, the chief sponsor, said this bill would eliminate the penalty for late unemployment reports. He said there was too much of a hassle to try to collect them.

There were no other proponents and no opponents. Rep. Harper closed. There were no questions from the committee.

HOUSE BILL 79

REPRESENTATIVE HAL HARPER, District #30, chief sponsor, said this bill is a little more complicated and substantive than the previously discussed bills he had sponsored today.

Rep. Harper said this deals with public works contracts. This is to help the department know how many contracts are out and when a contract is completed. The department has only 90 days after termination of a job to file an action to collect any penalty if the prevailing wage has not been paid. He said since 1932 there has been no requirement to list the prevailing wage in the bid but section 4 would make that mandatory. Section 2 makes it clear that it is to be paid even if not included in the contract, that the department is to be notified

10

when the job is completed. Section 5 says if requested a copy of the payroll will be sent to the department; Section 6 gives the department authority to check and Section 7 gives them rule making authority. A statement of intent covering this is EXHIBIT 2.

J. D. LYNCH, Montana State Building and Construction Trades Council, said they were in total support of the bill.

DON JUDGE, Montana State AFL-CIO, spoke in support. He said the five cases in court dealing with this problem are there because the law is not specific enough.

RANDY SIEMERS, Operating Engineers, said they were in total support of the bill.

DICK KANE, Labor Standards Division, said an amendment was needed on page 4, line 24. This would require the submission of weekly payroll to the contracting authority. This would be the State Purchasing Agency and he said they have about 15,000 contracts, many small like for business machines, and this reporting requirement would place a tremendous paper load on them.

LUTHER GLENN, State Purchasing, Department of Administration, handed in a suggested amendment, EXHIBIT 3, to clear up the problem mentioned by Mr. Kane.

There were no opponents and Chairman Ellerd opened the hearing to questions from the committee.

Rep. Seifert asked of Mr. Kane if these public works contractors did not have to file reports with the federal government and why the department could not go there for the information. Mr. Kane said the contracts they look at are not the same contracts as under federal law and are not subject to federal law. Rep. Seifert asked concerning the cost and Mr. Kane said it would cost less due to the court cases now. Even without court cases the cost would be minimal he felt.

CHAIRMAN Ellerd closed the hearings and called for a ten minute break, after which the committee would go into executive session.

EXECUTIVE SESSION

HB 62 - Rep. Seifert recommended do pass. Rep. Keedy suggested the bill be amended on page 1, line 22, by striking the words "including but not limited to those veterans serving because of the Vietnam conflict." He felt this language was not needed. Rep. Seifert moved the amendment and As Amended Do Pass. A voice vote was taken and the motion carried unanimously with those present.

11

HOUSE BILL 77 - Rep. Schultz moved Do Pass, seconded by Rep. Seifert. A voice vote was taken and the motion carried unanimously.

HOUSE BILL 79 - Rep. Harper, the sponsor,* said due to some unanswered questions he would appreciate the bill being passed for the day.

HOUSE BILL 11 - Rep. Keedy moved Do Pass. He then moved the following amendments: Page 1, line 18: strike "workweek" and insert "workperiod" - motion on this amendment passed unanimously by those present; Page 1, line 19: strike "the" and insert "a" - motion on this amendment passed unanimously by those present; page 2, lines 2, 3 and 4: strike "paid overtime at a rate of not less than 1 1/2 times the hour rate at which he is employed" and insert "compensated for those hours at a rate of not less than 1 1/2 times the hourly rate at which he is employed, or in accordance with any compensating time off provisions of the agreement" - motion on this amendment passed unanimously with those present; page 3, line 1: strike "is" and insert "are" - motion on this amendment passed unanimously with those present.

Don Judge, upon request, expressed a fear that these amendments might be taking out needed safeguards for accumulated comp time hours, increasing them from 80 to 160. Rep. Keedy felt there was no conflict as section 1 deals with bargaining unit situations and section 2 covers the accumulation of comp time of individuals who are not members of a collective bargaining unit.

Chairman Ellerd said since there was a question and since the bill's sponsor was not present he would rather hold off a decision on the bill until the next meeting. Rep. Harper moved the bill be passed for the day. This motion passed unanimously with those present.

HOUSE BILL 75 - The sponsor, Rep. Harper, requested this bill be held for the day until the amendments suggested by Mr. Smith could be studied. Motion carried unanimously to do so.

Rep. Schultz moved the meeting adjourn. Meeting adjourned at 2:45 p.m.

Respectfully submitted,



ROBERT ELLERD, CHAIRMAN

Statement of Intent - LC 282

A statement of intent is required for this bill because it grants the Commissioner of Labor and Industry rulemaking authority regarding the preference for Montana labor in public works contracts. This bill intends that the commissioner adopt rules concerning areas such as the use of apprentices, methods of computing standard prevailing wage rates, and geographical areas subject to the rates. The commissioner shall also have the authority to adopt rules as may be needed to ensure that reporting and enforcement measures are complied with.

HIC 79

Ex. 3

12-30

Run 129 (12-1)

1-08-21

Insert Page 4 New Section 4
line 22.

The provisions of
New Section 3 & 4 and do
not apply to State Purchasing
Statutes stated within MCF
Title 18 Section 4.

Bulhu Blum
449-2575

HOUSE LABOR & INDUSTRY COMMITTEE

Date 1-8-81

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES OF THE MEETING OF THE HOUSE LABOR AND INDUSTRY COMMITTEE
January 13, 1981

The Labor and Industry Committee met at 12:30 p.m. on January 13, 1981, in Room 129 of the State Capitol, with Chairman Robert Ellerd presiding and all members present.

Chairman Ellerd said Rep. Vinger had been taken off the committee due to a time conflict. His replacement is Representative Carl Smith.

Chairman Ellerd opened the meeting to a hearing on the following bills: HB 49, 89 and 101.

HOUSE BILL 49

REPRESENTATIVE BUDD GOULD, District 98, chief sponsor, introduced the bill and said Mr. Barrett and Mr. Boles were there to answer questions and explain the bill.

FRED BARRETT, Employment Security Division, said this bill was a result of a bill passed last session which set the arbitrary date of July, 1976, from which to compute an employer's experience rating computation. This statute puts the rating system on a three year running average of the most recent years. Since this would be based upon the most current information, it should be a bona fide projection of what is needed to provide the benefit payments in the following year. He felt it was good legislation.

FORREST BOLES, Montana Chamber of Commerce, handed in a copy of an amendment. The amendment is on page 7 and would delete all the material on lines 11 through 15 following the comma on line 11. He said the bill was at the request of employers. The suggested amendment to the bill is to eliminate the April opportunity to change the rate of taxation. He said in discussing this with the Division, the time frame of this change would be impractical- hardly worth the paperwork. He urged support of the bill.

ROBERT N. HELDING, Montana Wood Products Association, said they support the bill.

ED NURSE, Small Business Council of the Chamber of Commerce, said they can support the bill as amended.

DAVE GOSS, Billings Area Chamber of Commerce, said this bill will improve a good law. He said they support the bill.

There were no opponents. Rep. Gould had no closing statement.

HOUSE BILL 89

REPRESENTATIVE JACK MOORE, District 41, chief sponsor, said this bill would make a person ineligible to receive unemployment compensation benefits for 3 months from date of unemployment if the combined income of the unemployed and his spouse in the preceding three quarters exceeds \$24,000.

HOUSE BILL 79 - Rep. Seifert moved DO NOT PASS. Rep. Harper moved a substitute motion that the bill be amended. He said this bill is a workable solution to an unworkable law. Rep. Seifert said most public work contracts are required to pay the prevailing federal wage and not the state wage so this law would put an extra burden on employing contractors. Upon being requested, Ms. Brodsky, the researcher, said 18-2403 subsection 2 provides that federal laws take precedence. Rep. Seifert questioned the use of weekly payrolls as some are not paid weekly. Rep. Harper said elimination could be made of the two weekly references on page 4, line 23, and page 5, line 2. Rep. Seifert moved these two amendments and the motion carried unanimously. Rep. Harper moved the amendments listed in EXHIBIT 4 of the minutes and this motion carried unanimously. Rep. Harper moved the bill AS AMENDED DO PASS. Rep. Seifert expressed a fear that this would cause duplication. Mr. Groepper responded to a question that he felt it would not. A roll call vote was taken and the motion carried with 12 voting yes and 5 no (nos were Rep. Ellerd, Underdal, Seifert, Smith and Thoft).

HOUSE BILL 11 - Upon the Chairman's request, Ms. Brodsky went through the bill noting the suggested amendments (each member had a bill with the suggested amendments written in). Rep. Keyser moved the first amendment on EXHIBIT 5 and this carried unanimously with those present (Reps. Pavlovich and Harrington excused to attend another meeting); Rep. Keyser moved each amendment on this exhibit and each one passed unanimously. A change was made on the sixth amendment by Rep. Keedy - "represented by" was changed to "a member of," and this was the form the amendment was moved in and accepted. Rep. Seifert moved the bill AS AMENDED DO PASS. Rep. Sivertsen questioned if the sponsor was aware of and approved of the amendments. He said since the bill was being extensively amended her approval should be sought. He moved the bill BE PASSED FOR THE DAY. The motion passed unanimously with those present.

HOUSE BILL 89 - Rep. Seifert questioned the constitutionality of the bill and requested this point be checked on by the researcher.

HOUSE BILL 49 - Rep. Seifert moved to amend on page 7, line 11, following the word "date" to strike the remainder of line 11 and all of lines 12 to 15. This motion carried unanimously with those present. Rep. Keyser moved a DO PASS AS AMENDED and this motion carried unanimously (Reps. Pavlovich and Harrington had left a yes vote with the Chairman).

HOUSE BILL 101 - Rep. O'Connell moved the suggested amendment which was on page 1, lines 20 and 21 to strike "bad" and "as described in 45-5-316" and insert "knowing it will not be honored at the date of issue". Rep. Seifert questioned how they will prove that it will not be honored on the date of issue.

HOUSE BILL NO. 79 (Proposed Amendments)

1. Page 4, lines 5 through 10.
Following: "Notice." on line 5
Strike: the following material in its entirety
2. Page 4, line 11.
Following: line 10
Strike: "(1)"
Following: "When"
Strike: "the"
Insert: "a"
Following: "project"
Insert: "that exceeds \$50,000 in cost is completed and"
3. Page 4, line 12.
Following: "contracting"
Strike: "authority"
Insert: "agency"
4. Page 4, line 14.
Following: "department."
Insert: "In the case of projects that amount to \$50,000 or less
in cost, the department may request such information on an
individual contract basis."
5. Page 4, line 18.
Following: "Section 4."
Strike: "Bid"
Insert: "Contract"
6. Page 4, line 19.
Following: "All"
Strike: "bids"
Insert: "contracts"
7. Page 4, line 24.
Following: line 23
Strike: "to contracting authority"
Following: "by the"
Strike: "commissioner"
Insert: "department"

MINUTES OF THE MEETING OF THE HOUSE LABOR AND INDUSTRY COMMITTEE
January 15, 1981

The Labor and Industry Committee convened at 12:30 p.m. on January 15, 1981, in Room 129 of the State Capitol, with Vice Chairman Underdal presiding and all members present, except Chairman Ellerd who was excused.

Vice Chairman Underdal opened the meeting to a hearing on the following bills: HBs 118 and 124.

HOUSE BILL 118

REPRESENTATIVE ROBERT ANDERSON, District 16, chief sponsor, said this bill deals with the Department of Labor and Industry's State Board of Personnel Appeals, which review filed grievances and make decisions. Rep. Anderson apologized for the need of extensive amendments and passed to each member a copy of the amended bill (EXHIBIT 1 of the minutes). He said the five member board has had difficulty getting all members together and meeting on a regular basis. This bill would provide three auxiliary members - one to represent labor, one to represent management and a neutral one. If any of the appointed regular members are unable to make a hearing, his auxiliary counterpart would sit in for him. This will enable the full board to meet on a regular basis. He said Bob Jensen and Dave Hunter were present at his request to give testimony and answer questions.

DAVID HUNTER, Commissioner of Labor and Industry, said he was in favor of the auxiliary board members. He said the Board of Pardons is handled this way. He said this particular board (Board of Personnel Appeals) differs from many other boards in that it has a specific makeup - needs to include members representing labor, and management and a neutral (whose vote is often needed to break a tie).

BOB JENSEN, Labor Department, said he would answer questions.

R. NADIEAN JENSEN, American Federation of State, County and Municipal Employees, Executive Council 9, spoke next in support and a copy of her testimony is EXHIBIT 2 and part of the minutes. He said they would also support the amended bill.

JAMES W. MURRY, Montana Secretary of the AFL-CIO, said they would like to go on record as supporting the bill.

RANDY SIEMERS, Operating Engineers, said this would expedite decisions and they support the bill.

Opponents - none.

Rep. Anderson closed. He said this will not increase the permanent size of the board. These members will only fill in if needed to get the job done.

HOUSE BILL 118 - Rep. Menahan moved DO PASS. Rep. Keyser moved to delay action until the two members who had been gone during the explanation of the amended bill have an opportunity to study it (Chairman Ellerd and Rep. Seifert - who had been excused to attend a meeting during the hearing on HB 118 but was again present). A roll call vote was taken and it passed with 9 yes and 7 no and 1 excused (Chm. Ellerd). The nos were Reps. Dozier, Harper, Harrington, Menahan, O'Connell, Pavlovich, Sivertsen.

Rep. Menahan moved that no further action be taken on any bills. Rep. Harrington seconded it. A voice vote was taken and failed.

HOUSE BILL 79 - Rep. Harper said a Statement of Intent was needed for this bill which had been passed from the committee the previous meeting. Copies of the Statement were passed and a copy is EXHIBIT 3 and part of the minutes. Rep. O'Connell moved this statement be accepted. A voice vote was taken and passed unanimously with those present.

HOUSE BILL 11 - The sponsor of this bill had agreed to the amendments accepted by the committee at the last meeting. Rep. Kaiser moved that the amendments be adopted. The motion carried with Rep. Dozier voting no and Rep. Ellerd excused. Rep. Keyser moved the bill AS AMENDED DO PASS. This motion carried with five voting no (Dozier, Harrington, O'Connell, Pavlovich, Menahan) and one absent (Ellerd).

HOUSE BILL 89 - Rep. Menahan moved the bill DO NOT PASS and Rep. Thoft seconded the motion. The researcher, Ms. Brodsky, read upon request a communication from Floyd E. Edwards, Regional Administrator of the US Department of Labor. This communication had been received by Fred Barrett of the Employment Security Division (EXHIBIT 4 of the minutes). This communication indicated the bill would be unconstitutional and could adversely affect the state's Employment Security Program. A voice vote was taken and passed unanimously with those present.

HOUSE BILL 101 - Rep. Harrington moved the amendment on page 1, lines 20 and 21, to strike "bad" and "as described in 45-6-316" and insert "knowing it will not be honored on the date of issue." Rep. Keedy moved a substitute motion to amend by striking the new language on page 1, lines 20 and 21 and insert "(a) because his employer failed to pay him in full and in timely fashion" and to strike Seciton 2 in its entirety. He felt this would clear up the problem and not tie it up with the criminal part which could leave a loophole and the employer simply would not issue a check at all. He felt this broader amendment would cover Rep. Dozier's concern of ineligibility for compensation. Rep. Dozier said he had trouble with "in timely fashion" which has a time limit of 10 days. He preferred "knowingly gave him a bad check."

Statement of Intent - LC 282

A statement of intent is required for this bill because it grants the Commissioner of Labor and Industry rulemaking authority regarding the preference for Montana labor in public works contracts. This bill intends that the commissioner adopt rules concerning areas such as the use of apprentices, methods of computing standard prevailing wage rates, and geographical areas subject to the rates. The commissioner shall also have the authority to adopt rules as may be needed to ensure that reporting and enforcement measures are complied with.

MINUTES OF THE HOUSE LABOR AND EMPLOYMENT RELATIONS COMMITTEE
February 3, 1981

The House Committee on Labor and Employment Relations convened in Room 129, State Capitol, at 12:30 p.m. on February 3, 1981, with Chairman Ellerd presiding and all members present.

Chairman Ellerd opened the meeting to a hearing on House Bills 79 and 260.

HOUSE BILL 79

REPRESENTATIVE HAL HARPER, District 30, chief sponsor, said this bill had been passed out of the committee with a Do Pass as Amended on January 13, but it had been returned to the committee because even the parties that disagreed realize there is a problem. There is a law that has been in effect since 1931 that the standard prevailing wage be paid. He said an attempt is being made to tone down the bill and still accomplish the intent which was to provide some enforcement powers for the department, so they could settle problems without litigation and notify the contractor that he will have to meet the requirements. He said there were some amendments. He called on Ms. Brodsky, the researcher, to discuss the suggested amendments and also the amendments suggested by Rep. Jay Fabrega.

Ann Brodsky went through the suggested amendments and a copy of the bill with Rep. Fabrega's suggested amendment is EXHIBIT 1 and a copy with Rep. Harpers is EXHIBIT 2. The differences in the two groups of amendments is listed on EXHIBIT 3. She said the two main differences is that if the prevailing wage is not included in the contract Rep. Harper holds the contractor responsible while Rep. Fabrega holds the agency responsible; and Rep. Fabrega removes the rule making authority.

Rep. Harper said the \$50,000 was confusing to many people. They think it excludes all below \$50,000 from the law while it only excludes them from the reporting provision. He felt it should be left out for this reason so all would know they are covered.

REPRESENTATIVE JAY FABREGA, District 44, said he was speaking as an opponent with amendments. He said as a contractor he was familiar with the law. He felt the responsibility for including the prevailing wage in the contracts should lie with the agency - can't expect someone to bid in good faith on documents that do not include special conditions. He felt rulemaking authority was not needed. Standard wage rates and preference for Montana labor should be a part of these contracts. He urged a do pass with his amendments.

Rep. Harper upon being asked by the Chairman said he could accept and support the amendments as suggested by Rep. Fabrega.

J. D. LYNCH, Montana State Building and Construction Trade Council, said they would support the bill whichever amendments were accepted by the committee.

GREG GROEPPER, Labor and Industry, supported the bill as amended, and expressed their thanks to the representatives for working on the bill. He said they could accept either set of amendments. He didn't feel the rule making would be that big a deal. He felt the bill as amended would give them some enforcement power so they could solve cases without having to go to court.

LARRY HUSS, Montana Contractors Association, supported the bill as amended by Rep. Fabrega.

LUTHER GLENN, Purchasing Division, Department of Administration, spoke for the bill but suggested an amendment on page 4, line 24, to delete the word "stating" and insert "requiring compliance with." He felt jobs under \$50,000 should not have the prevailing wage stated in them.

RANDY SEIMERS, Operating Engineers, said they find themselves supporting the strong prevailing wage law. He said the burden falls on the contracting agency if they don't have that in their work contract and he felt the contractor certainly would be aware of what the prevailing wage is.

CHARLES CHAMBERLAIN, Association of Builders and Contractors, said they support the bill and rates and fringe benefits should be included in the bid document. He said the contractors in the outlying sections use the prevailing wage of their area and that is not necessarily the prevailing wage according to the Department of Labor.

TIM LOVELY, Lolo, representing self, said they need jobs in the Missoula area but they don't need minimum wage jobs. He supported the bill.

Questions were asked by the committee. Rep. Harper told Mr. Glenn that one of the problems the contractor was having is to have the prevailing wage stated on the contract so he will know what he has to pay. When asked, Dick Kane, Labor Standards Div., responded they have a problem as they let some 15,000 contracts a year - about 1500 or more deal with contracts that could fall under the prevailing wage law now. The majority are small contracts like installing electronic equipment, computer work and the companies that sell them to the agency does the installation and repair work. Including these in this law would mean a tremendous paperwork burden. Rep. Seifert asked how they set the prevailing wage throughout the state. Mr. Kane said they look at collective bargaining agreements, check the Unemployment Security Division, from other statistics and take into consideration the Davis-Bacon rates.

Rep. Harper said in closing that he appreciated the people who had worked on the bill. He said the purpose is to make workable a law to enable the legitimate contractor to compete for these jobs

HOUSE BILL 79 Rep. Harrington moved to accept Rep. Fabrega's amendments. This motion carried unanimously with those present (Rep. Harper absent). Rep. O'Connell moved DO PASS AS AMENDED. Rep. Schultz moved a substitute motion to adopt Mr. Glenn's amendment. The feeling of the committee seemed to be this is already in the bill and would just muddle it up. The question was called and the motion failed with Rep. Dozier and Underdal voting for the amendment and all others voting no. Rep. Seifert said he opposed the bill because he still had unanswered questions about who determines the prevailing wage rate. The motion of Do Pass as Amended carried with Reps. Seifert, Ellerd, and Smith voting no and Rep. Harper absent. Rep. Briggs moved to remove the statement of intent that had been attached to HB 79 as it was no longer needed. The motion carried unanimously with those present.

Motion was made and the meeting adjourned at 2 p.m.

Respectfully submitted,


ROBERT ELLERD, CHAIRMAN

eas

Present and
signing as opposed to HB 260 were:

Dan Baluka, Carpenters Helena Local 153
Ken Nerpel, Local 254
Robert Voytoski, IUOE Local #400 Helena
Howard Rosenleaf, Labor, Anaconda
George W. Kokoruda, representing self, Helena, EXHIBIT 8
Jay W. Ballard, representing self, Helena
Ronald E. Larsen, Carpenters - self, Clancy
Lowell D. Jennings, representing self, Helena
Richard Adsen, Laborers Local 254, Helena
S. H. Adsen, Local 153 Carpenters, Helena
William L. Baluka, Carpenters Union 153, Helena
Richard Abraham, Carpenters Local 153
John A. Fleming, Laborers Local 1334, Kalispell
Dean Reynolds, Carpenters Local 153, Helena
James M. Gallo, Laborers Local 254, Helmville
Ron Senger, Sheet Metal Workers Local 103, Great Falls
Dan Jones, Laborers 1334, MT State Bldg. Trades, Helena
Larry Persinger, Laborers Union 1334, Butte

HOUSE BILL NO. 79

INTRODUCED BY HARPER

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE AND CLARIFY
THE LAW RELATING TO THE PREFERENCE OF MONTANA LABOR IN
PUBLIC WORKS CONTRACTS; AMENDING SECTIONS 18-2-401 AND
18-2-403, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 18-2-401, MCA, is amended to read:

"18-2-401. Definitions. Unless the context requires
otherwise, in this part the following definitions apply:

(1) "Labor" is hereby defined to be all services
performed in the construction, repair, or maintenance of all
state, county, municipal, and school work and does not
include engineering, superintendence, management, or office
or clerical work.

(2) "Commissioner" means the commissioner of labor and
industry provided for in 2-15-1701.

(3) "Department" means the department of labor and
industry provided for in 2-15-1701.

~~(4)~~ (4) A "bona fide resident of Montana" is hereby
declared to be a person who, at the time of his employment
and immediately prior thereto, has lived in this state in

1 such a manner and for such time as is sufficient to clearly
2 justify the conclusion that his past habitation in this
3 state has been coupled with intention to make it his home.
4 Sojourners or persons who come to Montana solely in
5 pursuance of any contract or agreement to perform such labor
6 shall under no circumstance be deemed to be bona fide
7 residents of Montana within the meaning and for the purpose
8 of this part.

9 ~~(3)~~(5) (a) "Standard prevailing rate of wages,
10 including fringe benefits for health and welfare and pension
11 contributions and travel allowance provisions applicable to
12 the county or locality in which the work is being
13 performed," means those wages, including fringe benefits for
14 health and welfare and pension contributions and travel
15 allowance provisions, which are paid in the county or
16 locality by other contractors for work of a similar
17 character performed in that county or locality by each
18 craft, classification, or type of worker needed to complete
19 a contract under this part.

20 (b) When work of a similar character is not being
21 performed in the county or locality, the standard prevailing
22 rate of wages, including fringe benefits for health and
23 welfare and pension contributions and travel allowance
24 provisions, shall be those rates established by collective
25 bargaining agreements in effect in the county or locality

1 for each craft, classification, or type of worker needed to
2 complete the contract."

3 Section 2. Section 18-2-403, MCA, is amended to read:

4 "18-2-403. Preference of Montana labor in public works

5 -- wages -- federal exception. (1) In any contract let for
6 state, county, municipal, school, or heavy highway
7 construction, services, repair, or maintenance work under

8 any law of this state, there shall be inserted in the

9 ~~* but specification and the~~
10 A contract a provision requiring the contractor to give
11 preference to the employment of bona fide Montana residents
12 in the performance of the work and to pay the standard
13 prevailing rate of wages, including fringe benefits for
14 health and welfare and pension contributions and travel
15 allowance provisions, in effect and applicable to the county
16 or locality in which the work is being performed.

17 (2) No contract may be let to any person, firm,
18 association, or corporation refusing to execute an agreement
19 with the above-mentioned provisions in it, provided that in
20 contracts involving the expenditure of federal-aid funds
21 this part may not be enforced in such a manner as to
22 conflict with or be contrary to the federal statutes
23 prescribing a labor preference to honorably discharged
24 veterans of the armed forces and prohibiting as unlawful any
25 other preference or discrimination among citizens of the
United States.

(3) Failure to include the provisions required by subsection (1) ^{Section 47} in a public works contract does not ^{relieve} relieve the contractor from his obligation to pay the standard prevailing wage rate. ^{and places such obligation on The public contract agency}

NEW SECTION. Section 3. Notice. {1}--When--a---state
agency--or--any--public-entity-of-this-state-awards-a-public
works--contract--the--chief--executive---officer---of---the
contracting--authority-shall-send-to-the-department-a-notice
of-the-contract-award-and-the-expected-date-of-completion-of
the-projects.

(2) When the A public works project THAT EXCEEDS
\$50,000 IN COST IS COMPLETED AND is accepted by the public
contracting authority AGENCY, a notice of acceptance and the
completion date of the project shall be sent to the
department. HOWEVER,
IN THE CASE OF PROJECTS THAT AMOUNT TO \$50,000
OR LESS IN COST, THE DEPARTMENT MAY REQUEST SUCH INFORMATION
PROJECT AND IS NOT REQUIRED UNLESS THE DEPARTMENT REQUESTS THAT INFORMATION
ON AN INDIVIDUAL CONTRACT BASIS. The 90-day limitation for
filing an action in district court as provided in 18-2-407
does not begin until the public contracting agency notifies
the department of its acceptance of the public works
project.

project.

Bid specification and
NEW SECTION. Section 4. Bid a CONTRACT to contain
bid specifications and
prevailing wage rate. All Bids CONTRACTS for public works
projects must contain a provision stating the prevailing
wage rate including fringe benefits, for each job classification
that the contractors and subcontractors must pay

1 during construction of the project.

2 NEW SECTION. Section 5. Submission of weekly payroll records
 3 ~~If a complaint is filed with the department alleging noncompliance with~~
 4 ~~to--contracting--authority. If requested by the commissioner~~
 5 ~~[section 4], the department may require the project to submit to it~~
 6 ~~DEPARTMENT, all contractors and subcontractors on a public~~
 7 ~~certified copies of the payroll records for workers employed on that project~~
 8 ~~works project shall submit to the department certified~~
 9 ~~copies of their weekly payrolls.~~

10 NEW SECTION. Section 5. Enforcement. ~~(1) The~~
 11 ~~subcontractor refuses to submit payroll records upon request by the~~
 12 ~~commissioner or his representative may enter and inspect~~
 13 ~~department pursuant to [section 5], the commissioner or his~~
 14 ~~such places, question such employees, and investigate such~~
 15 ~~authorized representative may issue subpoenas compelling the~~
 16 ~~production of those records.~~
 17 ~~determine whether any person has violated any provision of~~
 18 ~~this part or any rule adopted pursuant to this part.~~

19 ~~(2) The commissioner or his authorized representative~~
 20 ~~may administer oaths and examine witnesses under oath, issue~~
 21 ~~subpoenas, compel the attendance of witnesses and the~~
 22 ~~production of papers, books, accounts, records, payrolls,~~
 23 ~~documents, and testimony, and take depositions and~~
 24 ~~affidavits in any enforcement proceedings.~~

25 NEW SECTION. Section 7. Rulemaking authority. The
 26 commissioner may adopt rules necessary for the
 27 implementation, continuation, and enforcement of this part
 28 in accordance with the Montana Administrative Procedures Act.

29 Section ⁷/₇. Codification instruction. It is intended
 30 that sections 3 through 7 be codified as an integral part of
 31 Title 19, chapter 2, part 4, and the provisions contained in

- 1 Title 13, chapter 2, part 4, apply to sections 3 through 7.

-End-

6x2

REP. HARPER'S PROPOSED AMENDMENTS

HOUSE BILL NO. 79

INTRODUCED BY HARPER

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE AND CLARIFY
THE LAW RELATING TO THE PREFERENCE OF MONTANA LABOR IN
PUBLIC WORKS CONTRACTS; AMENDING SECTIONS 18-2-401 AND
18-2-403, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 18-2-401, MCA, is amended to read:

"18-2-401. Definitions. Unless the context requires
otherwise, in this part the following definitions apply:

(1) "Labor" is hereby defined to be all services
performed in the construction, repair, or maintenance of all
state, county, municipal, and school work and does not
include engineering, superintendence, management, or office
or clerical work.

(2) "Commissioner" means the commissioner of labor and
industry provided for in 2-15-1701.

(3) "Department" means the department of labor and
industry provided for in 2-15-1701.

~~(2)~~(4) A "bona fide resident of Montana" is hereby
declared to be a person who, at the time of his employment
and immediately prior thereto, has lived in this state in

1 such a manner and for such time as is sufficient to clearly
2 justify the conclusion that his past habitation in this
3 state has been coupled with intention to make it his home.
4 Sojourners or persons who come to Montana solely in
5 pursuance of any contract or agreement to perform such labor
6 shall under no circumstance be deemed to be bona fide
7 residents of Montana within the meaning and for the purpose
8 of this part.

9 ~~f3+(5)~~ (a) "Standard prevailing rate of wages,
10 including fringe benefits for health and welfare and pension
11 contributions and travel allowance provisions applicable to
12 the county or locality in which the work is being
13 performed," means those wages, including fringe benefits for
14 health and welfare and pension contributions and travel
15 allowance provisions, which are paid in the county or
16 locality by other contractors for work of a similar
17 character performed in that county or locality by each
18 craft, classification, or type of worker needed to complete
19 a contract under this part.

20 (b) When work of a similar character is not being
21 performed in the county or locality, the standard prevailing
22 rate of wages, including fringe benefits for health and
23 welfare and pension contributions and travel allowance
24 provisions, shall be those rates established by collective
25 bargaining agreements in effect in the county or locality

1 for each craft, classification, or type of worker needed to
2 complete the contract."

3 Section 2. Section 18-2-403, MCA, is amended to read:

4 "18-2-403. Preference of Montana labor in public works
5 -- wages -- federal exception. (1) In any contract let for
6 state, county, municipal, school, or heavy highway
7 construction, services, repair, or maintenance work under
8 any law of this state, there shall be inserted in the
9 bid specification and the
10 A contract a provision requiring the contractor to give
11 preference to the employment of bona fide Montana residents
12 in the performance of the work and to pay the standard
13 prevailing rate of wages, including fringe benefits for
14 health and welfare and pension contributions and travel
15 allowance provisions, in effect and applicable to the county
16 or locality in which the work is being performed.

17 (2) No contract may be let to any person, firm,
18 association, or corporation refusing to execute an agreement
19 with the above-mentioned provisions in it, provided that in
20 contracts involving the expenditure of federal-aid funds
21 this part may not be enforced in such a manner as to
22 conflict with or be contrary to the federal statutes
23 prescribing a labor preference to honorably discharged
24 veterans of the armed forces and prohibiting as unlawful any
25 other preference or discrimination among citizens of the
United States.

(3) Failure to include the provisions required by subsection (1) in a public works contract does not relieve the contractor from his obligation to pay the standard prevailing wage rate."

NEW SECTION. Section 3. Notice. ~~{1}--When--a--state agency--or--any--public-entity-of-this-state-awards-a-public works--contract--the--chief--executive---officer---of---the contracting--authority-shall-send-to-the-department-a-notice of-the-contract-award-and-the-expected-date-of-completion-of the-project.~~

{2} When the a public works project THAT EXCEEDS \$50,000 IN COST IS COMPLETED AND is accepted by the public contracting authority AGENCY, a notice of acceptance and the completion date of the project shall be sent to the

department. ^{However,} IN THE CASE OF PROJECTS THAT AMOUNT TO \$50,000 OR LESS IN COST, THE DEPARTMENT MAY REQUEST SUCH INFORMATION project is not required unless the department requests that information. ON AN INDIVIDUAL CONTRACT BASIS. The 90-day limitation for

filing an action in district court as provided in 18-2-407 does not begin until the public contracting agency notifies the department of its acceptance of the public works project.

Bid specification and
NEW SECTION. Section 4. Bid A CONTRACT to contain bid specifications and prevailing wage rate. All Bids CONTRACTS for public works projects must contain a provision stating the prevailing including fringe benefits, for each job classification wage rates that the contractors and subcontractors must pay

1 during construction of the project.

2 NEW SECTION. Section 5. Submission of weekly payroll records.
 3 If a complaint is filed with the department alleging noncompliance
 4 to--contracting--authority. If requested by the commissioner
 5 with [Section 4], the department may require the project to submit
 6 DEPARTMENT, all contractors and subcontractors on a public
 7 to it certified copies of the payroll records for workers employed
 8 works project shall submit to the department certified
 9 on that project.
 10 copies of their weekly payrolls.

11 If a contractor or
 12 NEW SECTION. Section 6. Enforcement. (1) The
 13 a subcontractor refuses to submit payroll records requested by the
 14 commissioner or his representative may enter and inspect
 15 department pursuant to [Section 5], the commissioner or his
 16 such places, question such employees, and investigate such
 17 authorized representative may issue subpoenas compelling the
 18 facts, conditions, or matters as considered appropriate to
 19 production of those records.
 20 determine whether any person has violated any provision of
 21 this part or any rule adopted pursuant to this part.

22 (2) The commissioner or his authorized representative
 23 may administer oaths and examine witnesses under oath, issue
 24 subpoenas, compel the attendance of witnesses and the
 25 production of papers, books, accounts, records, payrolls,
 26 documents, and testimony, and take depositions and
 27 affidavits in any enforcement proceedings.

28 NEW SECTION. Section 7. Rulemaking authority. The
 29 commissioner may adopt rules necessary for the
 30 implementation, continuation, and enforcement of this part
 31 in accordance with the Montana Administrative Procedure Act.

32 Section 8. Codification instruction. It is intended
 33 that sections 3 through 7 be codified as an integral part of
 34 Title 18, chapter 2, part 4, and the provisions contained in

1 Title 18, chapter 2, part 4, apply to sections 3 through 7.

-End-

DIFFERENCES BETWEEN HARPER'S AND FABREGA'S PROPOSED
AMENDMENTS TO HB 79

1. page 4, lines 1 through 4 (Harper leaves as is; Fabrega amends)
2. page 5, lines 19 through 22 (Harper leaves as is; Fabrega strikes
(rulemaking authority to department)

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO NOT DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
HB #11	1/21/81	2/3/81	3/7/81					3/7/81	
HB #49	1/19/81	1/29/81	1/29/81				1/29/81		
HB #75	2/12/81	3/5/81	3/7/81						3/7/81
HB #76	1/26/81	2/3/81	2/3/81				2/3/81		
HB #77	1/12/81	1/20/81	1/22/81				1/22/81		
HB #79	2/12/81	3/5/81	3/7/81				3/7/81		
HB #118	1/27/81	2/10/81	2/10/81				2/10/81		
HB #124	1/22/81	2/5/81	2/10/81				2/10/81		
HB #283	2/18/81	3/3/81	3/7/81				3/7/81		
HB #344	2/5/81	3/3/81	3/3/81				3/3/81		
HB #414	2/18/81	3/5/81	3/19/81						3/19/81
HB #430	3/4/81	3/12/81	3/17/81				3/17/81		
HB #464	2/19/81	3/3/81	3/3/81				3/3/81		
HB #557	3/3/81	3/10/81	Stays in Committee						
HB #750	3/3/81	3/10/81	3/10/81				3/10/81		
HJR #25	3/5/81	3/12/81	3/19/81				3/19/81		

(Use Separate Sheet for Senate, House Bills, and Resolutions)

MINUTES OF THE MEETING
LABOR & EMPLOYMENT RELATIONS COMMITTEE
MONTANA STATE SENATE

March 5, 1981

The meeting of the Labor & Employment Relations Committee was called to order by Chairman Harold Nelson on March 5, 1981, in Room 404 of the State Capitol at 1:00 p.m.

ROLL CALL: All members of the Committee were present.

CONSIDERATION OF HOUSE BILL 79:

Chairman Nelson introduced Representative Hal Harper, sponsor of HB 79 to the Committee, and Rep. Harper explained the bill to the Committee. This bill is by request of the Department of Labor & Industry. This bill is an Act to revise and clarify the law relating to the preference of Montana labor in public works contracts.

Representative Harper stated that this bill is an amendment to the prevailing wage law passed in 1931. The main points are:

- 1) In public contracts, Montana contractors that have the jobs are going to give Montana citizens first crack at those jobs.
- 2) The Contractors must pay the prevailing wage for those jobs.

Representative Harper stated that a weakness in the present law is that the Department has no authority to inspect the records so money is being wasted in court cases. The bill tries to clarify the law to attempt to save time and money and guarantee fair wages to workers.

Representative Harper told the Committee the main purposes of the bill are:

- 1) To save both time and money
- 2) To help guarantee fair wages to workers
- 3) To protect and encourage the legitimate contractor who follows the law.

PROPOSERS OF HOUSE BILL 79:

Representative Fabrega made some comments regarding the bill. The bill was introduced because they recognize some of the problems small contractors are having with the law. He stated that the \$50,000 is strictly a reporting requirement. If the job is less than \$50,000, you do not need to send a notice of completion of the job.

Representative Fabrega stated that every contractor should be aware of the law in Montana. It is the smaller contractor who has been hurt by this law.

Mr. Dave Hunter, representing the Department of Labor & Industry, stated that this bill is by request of the Department of Labor, and they support the bill. Mr. Hunter feels the bill would help them do a better job administratively.

Mr. James Murry, representing AFL-CIO, stated they are in support of House Bill 79. Mr. Murry's printed testimony is attached.

Mr. Joe Martin of Great Falls, representing Plumbers & Fitters Local 139, stated they support HB 79.

Mr. Joe Rossman of Butte, representing the Joint Council of Teamsters #2, stated they are in support of HB 79.

Mr. Jerry Driscoll of Billings, representing the Laborers' Union Local #98, stated they are in support of HB 79.

Mr. Pat Merkel of Bozeman, representing the Carpenters' Local No. 557, stated that this affects non-union contractors--especially those from out of state, and it makes the out-of-state contractors pay the prevailing wage.

Mr. Mark Brown of Bozeman, representing the Carpenters' Local 557, stated this bill would help to enforce the existing law and they are in support of HB 79.

Mr. Luther Glenn, representing the Department of Administration, offered an amendment to HB 79. This amendment is attached to the minutes.

Mr. Mitch Mihailovich of Butte, representing the Montana State Building and Construction Trades, stated they are in support of HB 79.

There were no opponents of HB 79 present at the hearing.

QUESTIONS ON HOUSE BILL 79:

Senator Aklestad wondered where all the contractors were that they are helping.

Rep. Harper stated that Rep. Fabrega was representing them.

Senator Keating asked who file the complaints or who can file the complaint.

Mr. Kane from the Department of Labor stated that presently the source of claims comes from the workers themselves and sometimes from other contractors. Sometimes the union people file a complaint, and sometimes a public official.

Senator Keating asked who establishes prevailing rates and how they are established.

Mr. Kane stated that the Commissioner of Labor establishes the rates. The rates are compiled by using various sources of wage rates.

Senator Aklestad asked if this bill wasn't similar to a bill two years ago. Representative Harper stated that he didn't think so. He stated that this is basically a different bill.

Senator Keating asked if anyone had any objections to the amendment that was offered by Mr. Glenn.

Representative Harper stated that it merely applies to the posting requirements.

Representative Fabrega expressed objection to the amendment offered by Mr. Glenn on the basis that the amendment conflicts with the intent of the bill to protect small contractors.

Chairman Nelson called the hearing closed on House Bill 79.

CONSIDERATION OF HOUSE BILL 75:

Representative Harper, sponsor of House Bill 75, stated that this bill is by request of the Department of Labor and Industry. This bill is an Act clarifying a week of unemployment and providing an exception whenever self-employment is not a primary source of income.

PROPOSERS OF HOUSE BILL 75:

Mr. Chad Smith, representing Montana Unemployment Advisors, Inc., stated that they believe the bill has merit, but it still doesn't say what it was written to say. Mr. Smith stated that the bill doesn't speak of self-employment--it speaks of wages.

Mr. Smith submitted an amendment, and this amendment is attached to the minutes.

Mr. Dave Hunter from the Department of Labor stated that he thinks the amendment would make the law more clear and he urged the Committee to support the bill with the amendment offered by Mr. Smith.

There were no opponents of House Bill 75 present at the hearing.

Representative Harper offered an amendment to House Bill 75. This amendment is attached to the minutes.

Mr. Kansier from the Department of Labor stated that Rep. Harper's amendment and Mr. Smith's amendment virtually do the same thing.



Box 1176, Helena, Montana

JAMES W. MURRY
EXECUTIVE SECRETARY

ZIP CODE 59601
406/442-1708

Room 100 "Steamboat Block"
616 Helena Ave.

79

TESTIMONY OF JAMES W. MURRY ON HOUSE BILL 95, BEFORE HEARINGS OF THE SENATE LABOR COMMITTEE, MARCH 5, 1981

I am Jim Murry, Executive Secretary of the Montana State AFL-CIO here to support House Bill 79.

This bill clarifies the law entitled "Preference for Montana Labor in Public Works Contracts," which was first enacted in 1931.

The law provides for two things. First, whenever a public contract of any kind is put out for bid, the contractors must give first job preference to bona fide Montana residents. Second, the contractor must pay what is defined as the standard prevailing wage. This is a good law in Montana as in other states. It has been on the books for years.

This law makes for better and safer construction. It puts Montanans to work. It pumps money into the local economy for the local merchants. The public is well served by the Preference for Montana Labor in Public Works Contracts law.

The problem is that the law has not been well enforced. That hurts workers whose wages are lower than they are entitled to, if they work for an unscrupulous contractor. That hurts honest contractors who obey the law and are penalized by losing bids to those who ignore the laws of Montana. That brings in outside workers. And it puts much less money into the economy of local towns.

This bill does not strengthen the law. It merely makes the law enforceable, so that all contractors abide by the same consistent rules.

There are two important clarifications of the law in this bill. First, it requires that each contract and bid specification carry the wage rates, including fringe benefits. That way all the parties concerned know exactly what the rules of the game are, before project start-up.

Second, copies of the payroll records must be submitted by the contractor to the Department of Labor on request. The Department has the power of subpoena when the request is denied. As it is now, the department must sometimes initiate legal proceedings just to see the records. This change will save the state time and money and assure justice to contractors and workers alike.

This bill is important to workers in the construction trades. It provides fair wages. It penalizes only those who break the law, and rewards fair and sincere contractors by making them competitive. It provides for monetary input to local economies, to grocery stores and clothing stores, and all main street merchants.

We ask you to vote yes on House Bill 79 to make the current law enforceable. It only seems fair that every contractor would have to play by the same rules.

ROLL CALL

LABOR & EMPLOYMENT RELATIONS COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date Mar. 5

NAME	PRESENT	ABSENT	EXCUSED
GARY C. AKLESTAD, VICE-CH.	✓		
MIKE ANDERSON	✓		
PAT M. GOODOVER	✓		
WILLIAM HAFFERMAN	✓		
THOMAS F. KEATING	✓		
BILL NORMAN	✓		
PATRICK L. RYAN	✓		
HAROLD C. NELSON, CHAIRMAN	✓		

Each day attach to minutes.

NAME :

DATE :

ADDRESS :

PHONE :

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU :

SUPPORT?

X

AMEND?

OPPOSE?

COMMENTS :

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Joseph J. MARTIN

DATE: 3-5-81

ADDRESS: P.O. Box 1703 - GREAT FALLS, MONT. 59403

PHONE: 452-1977

REPRESENTING WHOM? PLUMBERS + FITTERS LOCAL 139

APPEARING ON WHICH PROPOSAL: H.B. 79

DO YOU: SUPPORT? ✓ AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Jimmy Dunsolf

DATE: 3-5-81

ADDRESS: 4344 Stone St Billings

PHONE: 259-1655

REPRESENTING WHOM? Laborer's Union Local 98

APPEARING ON WHICH PROPOSAL: HB 79

SUPPORT?

X

AMEND?

OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Patrick J. Merkel DATE: 3/5/81

ADDRESS: 709 S. Willow Bozeman Mont

PHONE: 586-5697

REPRESENTING WHOM? Carpenter's Local #557

APPEARING ON WHICH PROPOSAL: H.B. 79

DO YOU: SUPPORT? yes AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Mark Brown

DATE: 3/5/81

ADDRESS: 713 S. 14th BOREMAN

PHONE: 586-0939

REPRESENTING WHOM? CARPENTERS LOCAL #557

APPEARING ON WHICH PROPOSAL: H.B. 79

DO YOU: SUPPORT? YES AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Luther Glenn

DATE: 5-5-81

ADDRESS: Holland

PHONE :

REPRESENTING WHOM? Dept of Admin

APPEARING ON WHICH PROPOSAL: HB 79

DO YOU: SUPPORT? AMEND? ☒ OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

DEPARTMENT OF ADMINISTRATION
PURCHASING DIVISION



TED SCHWINDEN, GOVERNOR

MITCHELL BUILDING, ROOM 165

STATE OF MONTANA

(406) 449-2575

HELENA, MONTANA 59620

TO: Senate Labor Committee
Harold Nelson, Chairman and Committee Members

FROM: Department of Administration
Purchasing Division *[Signature]*
Luther Glenn, Administrator

DATE: March 4, 1981

SUBJECT: HB 79, "AN ACT TO REVISE AND CLARIFY THE LAW RELATING TO THE PREFERENCE OF MONTANA LABOR IN PUBLIC WORKS CONTRACTS; AMENDING SECTIONS 18-2-401 AND 18-2-403, MCA."

The Department of Administration is in favor of the concept of the Act; however, requests your consideration to amend the legislation as noted below:

Page five, line two following the word projects, insert: Amounting To More Than \$50,000.

This recommendation would not alter the responsibility of the Public Contracting Agency who awards construction projects over \$50,000.

The amendment would eliminate the Purchasing Division's statutory responsibility to geographically identify the prevailing wage rate for each job classification which may be incorporated within bid specifications and the thousands of contracts primarily concerned with the procurement of materials and supplies.

Job classification wage rates for service requirements such as repair, maintenance and installation are not readily available and the obligation to identify each rate and benefit would result in the delay of the bid process.

pj

NAME :

DATE : _____

ADDRESS :

PHONE :

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU :

SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME :

DATE: March 5, 1981

ADDRESS :

PHONE :

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU :

SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

DATE March 5, 1981

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Jim Mocahee	Assoc. of Students of MSH	414 HB		
J. T. Kersich	Bd of Eng & LS	414 HB		✓
S. Houson	Mont. Technical Council	HB-414		✓
JOSEPH J. MARTIN	PLUMBERS & FITTERS LOCAL 139	HB 79	✓	
William Olson	Montana Contractors Assn.	HB 414	✓	
Harold Karsier	Dept. of Labor	HB-75		
David L. Hunter	Dept of labor	HB 75, 79	✓✓	
MARK BROWN	CARPENTERS LOCAL #557	H.B. 79	✓	
Patrick Muehl	Carpenter Local #557	HB. 79	✓	
E. Aramson	Bd of PEs & LS's	HB 414		✓
James W. Murray	Mont. State AFL-CIO	HB 79	✓	
Erny Driscoll	Laborers Union Local 8	HB 79	✓	
Joe Roseman	Teamsters I.C. #2	HB 79	✓	
Paul Mc Carthy	Teamsters I.C. #2	HB 79	✓	
Donald R. Reinhardt	Construction Engr. Tech Students	HB 414	✓ w/amend	
Chas Smith	Unemp Camp Advisory Inc	HB 75	amend	
John D. Sturgeon	ASMET Mont. St. U.	HB 414	✓ w/amend	

MINUTES OF THE MEETING
LABOR & EMPLOYMENT RELATIONS COMMITTEE
MONTANA STATE SENATE

March 7, 1981

The meeting of the Labor & Employment Relations Committee was called to order by Chairman Harold Nelson on March 7, 1981, in Room 404 of the State Capitol at 1:00 p.m.

ROLL CALL: All members of the Committee were present.

ACTION ON HOUSE BILL 283:

Representative Fabrega gave the Committee a rundown on House Bill 283 since he was not present for the hearing which was held on March 3, 1981.

Senator Keating moved that House Bill 283 Be Concurred In. Senator Hafferman seconded the motion. The Committee voted unanimously that HOUSE BILL 283 BE CONCURRED IN.

Senator Hager will carry House Bill 283 on the floor.

ACTION ON HOUSE BILL 414:

Senator Hafferman made the motion that House Bill 414 Not Be Concurred In. Senator Keating seconded the motion.

On a Roll Call Vote, the Committee voted 4-4 that House Bill 414 Not Be Concurred In. Since the motion ended in a tie vote, House Bill 414 will stay in Committee. This Roll Call Vote is attached.

ACTION ON HOUSE BILL 79:

Senator Norman moved that House Bill 79 Be Concurred In. On a voice vote, the Committee voted 7-1 that HOUSE BILL 79 BE CONCURRED IN. Senator Aklestad voted "no".

Senator Norman will carry House Bill 79 on the floor.

ACTION ON HOUSE BILL 75:

Senator Keating made the motion that House Bill 75 Not Be Concurred In. On a Roll Call Vote, the Committee voted 4-3 that HOUSE BILL 75 NOT BE CONCURRED IN. This Roll Call Vote is attached. Senator Anderson was absent for this vote.

Senator Keating will give the adverse Committee report on the floor.

STANDING COMMITTEE REPORT

March 7, 1931

MR. PRESIDENT

We, your committee on LABOR & EMPLOYMENT RELATIONS

having had under consideration HOUSE Bill No. 79

Harper (Senator Norman)

Respectfully report as follows: That HOUSE Bill No. 79

H.C.

BE CONCURRED IN
DO PASS

ROLL CALL

LABOR & EMPLOYMENT RELATIONS COMMITTEE

47 th LEGISLATIVE SESSION - - 1981

Date March 7

NAME	PRESENT	ABSENT	EXCUSED
GARY C. AKLESTAD, VICE-CH.	✓		
MIKE ANDERSON	✓		
PAT M. GOODOVER	✓		
WILLIAM HAFFERMAN	✓		
THOMAS F. KEATING	✓		
BILL NORMAN	✓		
PATRICK L. RYAN	✓		
HAROLD C. NELSON, CHAIRMAN	✓		

Each day attach to minutes.

57

1 STATEMENT OF INTENT

2 HOUSE BILL 79

3 House Labor and Industry Committee

4

5 A statement of intent is required for this bill because
6 it grants the Commissioner of Labor and Industry rulemaking
7 authority regarding the preference for Montana labor in
8 public works contracts. This bill intends that the
9 commissioner adopt rules concerning areas such as the use of
10 apprentices, methods of computing standard prevailing wage
11 rates, and geographical areas subject to the rates. The
12 commissioner shall also have the authority to adopt rules as
13 may be needed to ensure that reporting and enforcement
14 measures are complied with.



1 HOUSE BILL NO. 79

2 INTRODUCED BY HARPER

3 BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE AND CLARIFY
6 THE LAW RELATING TO THE PREFERENCE OF MONTANA LABOR IN
7 PUBLIC WORKS CONTRACTS; AMENDING SECTIONS 18-2-401 AND
8 18-2-403, MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 18-2-401, MCA, is amended to read:

12 "18-2-401. Definitions. Unless the context requires
13 otherwise, in this part the following definitions apply:

14 (1) "Labor" is hereby defined to be all services
15 performed in the construction, repair, or maintenance of all
16 state, county, municipal, and school work and does not
17 include engineering, superintendence, management, or office
18 or clerical work.

19 (2) "Commissioner" means the commissioner of labor and
20 industry provided for in 2-15-1701.

21 (3) "Department" means the department of labor and
22 industry provided for in 2-15-1701.

23 (2)(4) A "bona fide resident of Montana" is hereby
24 declared to be a person who, at the time of his employment
25 and immediately prior thereto, has lived in this state in

1 such a manner and for such time as is sufficient to clearly
2 justify the conclusion that his past habitation in this
3 state has been coupled with intention to make it his home.
4 Sojourners or persons who come to Montana solely in
5 pursuance of any contract or agreement to perform such labor
6 shall under no circumstance be deemed to be bona fide
7 residents of Montana within the meaning and for the purpose
8 of this part.

9 (3)(5) (a) "Standard prevailing rate of wages,
10 including fringe benefits for health and welfare and pension
11 contributions and travel allowance provisions applicable to
12 the county or locality in which the work is being
13 performed," means those wages, including fringe benefits for
14 health and welfare and pension contributions and travel
15 allowance provisions, which are paid in the county or
16 locality by other contractors for work of a similar
17 character performed in that county or locality by each
18 craft, classification, or type of worker needed to complete
19 a contract under this part.

20 (b) When work of a similar character is not being
21 performed in the county or locality, the standard prevailing
22 rate of wages, including fringe benefits for health and
23 welfare and pension contributions and travel allowance
24 provisions, shall be those rates established by collective
25 bargaining agreements in effect in the county or locality

for each craft, classification, or type of worker needed to complete the contract."

Section 2. Section 18-2-403, MCA, is amended to read:

"18-2-403. Preference of Montana labor in public works -- wages -- federal exception. (1) In any contract let for state, county, municipal, school, or heavy highway construction, services, repair, or maintenance work under any law of this state, there shall be inserted in the BID SPECIFICATION AND THE contract a provision requiring the contractor to give preference to the employment of bona fide Montana residents in the performance of the work and to pay the standard prevailing rate of wages, including fringe benefits for health and welfare and pension contributions and travel allowance provisions, in effect and applicable to the county or locality in which the work is being performed.

(2) No contract may be let to any person, firm, association, or corporation refusing to execute an agreement with the above-mentioned provisions in it, provided that in contracts involving the expenditure of federal-aid funds this part may not be enforced in such a manner as to conflict with or be contrary to the federal statutes prescribing a labor preference to honorably discharged veterans of the armed forces and prohibiting as unlawful any other preference or discrimination among citizens of the United States.

(3) Failure to include the provisions required by subsection--(1) [SECTION 4] in a public works contract does not-relieve RELIEVES the contractor from his obligation to pay the standard prevailing wage rate AND PLACES SUCH OBLIGATION ON THE PUBLIC CONTRACTING AGENCY."

NEW SECTION. Section 3. Notice. (1)--When--a--state agency--or--any--public-entity-of-this-state--awards--a--public works--contract--the--chief--executive--officer--of--the contracting--authority--shall--send--to--the--department--a--notice of--the--contract--award--and--the--expected--date--of--completion--of the--project.

(2) When the A public works project THAT--EXCEEDS \$50,000--IN--COST--IS--COMPLETED--AND is accepted by the public contracting authority AGENCY, a notice of acceptance and the completion date of the project shall be sent to the department. IN HOWEVER, IN THE CASE OF PROJECTS THAT AMOUNT TO \$50,000 OR LESS IN COST, THE DEPARTMENT--MAY--REQUEST--SUCH INFORMATION--ON--AN--INDIVIDUAL--CONTRACT--BASIS NOTICE OF ACCEPTANCE AND THE COMPLETION DATE OF THE PROJECT IS NOT REQUIRED UNLESS THE DEPARTMENT REQUESTS THAT INFORMATION.

The 90-day limitation for filing an action in district court as provided in 18-2-407 does not begin until the public contracting agency notifies the department of its acceptance of the public works project.

NEW SECTION. Section 4. Bid BID SPECIFICATION AND

1 CONTRACT to contain prevailing wage rate. All bids BID
 2 SPECIFICATIONS AND CONTRACTS for public works projects must
 3 contain a provision stating FOR EACH JOB CLASSIFICATION the
 4 prevailing wage rate, INCLUDING FRINGE BENEFITS, that the
 5 contractors and subcontractors must pay during construction
 6 of the project.

7 NEW SECTION. Section 5. Submission of weekly payroll
 8 to contracting authority RECORDS. If requested by the
 9 commissioner DEPARTMENT, all contractors and subcontractors
 10 on a public works project shall submit to the department
 11 certified copies of their weekly payrolls. IF A COMPLAINT IS
 12 FILED WITH THE DEPARTMENT ALLEGING NONCOMPLIANCE WITH
 13 [SECTION 4], THE DEPARTMENT MAY REQUIRE THE PROJECT TO
 14 SUBMIT TO IT CERTIFIED COPIES OF THE PAYROLL RECORDS FOR
 15 WORKERS EMPLOYED ON THAT PROJECT.

16 NEW SECTION. Section 6. Enforcement. (1)-----The
 17 commissioner or his representative may enter and inspect
 18 such places, question such employees, and investigate such
 19 facts, conditions, or matters as considered appropriate to
 20 determine whether any person has violated any provision of
 21 this part or any rule adopted pursuant to this part.

22 (2)-----The commissioner or his authorized representative
 23 may administer oaths and examine witnesses under oath, issue
 24 subpoenas, compel the attendance of witnesses, and the
 25 production of papers, books, accounts, records, payrolls,

1 documents, and testimony, and take depositions, and
 2 affidavits in any enforcement proceedings.

3 NEW SECTION. Section 7. Rulemaking authority. The
 4 commissioner may adopt rules necessary for the
 5 implementation, continuation, and enforcement of this part
 6 in accordance with the Montana Administrative Procedure Act.
 7 IF A CONTRACTOR OR A SUBCONTRACTOR REFUSES TO SUBMIT PAYROLL
 8 RECORDS REQUESTED BY THE DEPARTMENT PURSUANT TO [SECTION 5],
 9 THE COMMISSIONER OR HIS AUTHORIZED REPRESENTATIVE MAY ISSUE
 10 SUBPOENAS COMPELLING THE PRODUCTION OF THOSE RECORDS.

11 Section 7. Codification instruction. It is intended
 12 that sections 3 through 7 6 be codified as an integral part
 13 of Title 18, chapter 2, part 4, and the provisions contained
 14 in Title 18, chapter 2, part 4, apply to sections 3 through
 15 7 6.

-End-